

SEP 21 1999 1043  
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CALFED Bay-Delta Program  
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Valley Water Protection Association is composed of groundwater interests concerned with agriculture, domestic, and environmental uses of water in the Sacramento Valley. We have attempted to contribute to the evolving CALFED actions through meeting attendance and written comments since 1996. At this time we feel compelled to point out that attendance and comment does not provide adequate balanced input into your BDAC Policy Board deliberations. The limited representation from Sacramento Valley groundwater users is significant. We ask that you rectify this before proceeding.

Consideration of water source regions is inadequate. This Draft Programmatic EIR/EIS reflects that lack of geographic and resource-based balance in the stakeholder policy group, BDAC. Never-the-less we would like to applaud this first effort and hope that our comments can facilitate a second, more adequate draft in the near future. We point out, however, that a policy draft is not an Environmental Impact Report even at a programmatic level. Our other concerns lie with unsubstantiated assumptions and internal inconsistencies in terms stated as fact and used as a basis for actions proposed in this Draft Programmatic EIR/EIS.

1. The inference that this document is adequate, because site-specific Environmental Impact Reports will be done before actions are undertaken, is misleading. We point to actions of land acquisition, water acquisition, and riparian projects that have been funded under CALFED-orchestrated grants already. While these actions may be valuable, they have not considered cumulative impacts nor prioritized actions for adaptive management progression. Additionally, the multi-species recovery strategy states that CALFED agency representatives can excuse themselves from EIR study through consultation amongst themselves to bypass EIR requirements using this programmatic report. The document is inadequate for this.
2. Watershed management and water management are not the same. Documents appear to assume that they are the same. This critical discussion should be resolved at a policy level and inconsistencies amended. Decisions about water management and potential reallocation of water must take place at a Watershed level rather than an individual, district, county, or State and Federal level. Changes in surface and groundwater are linked. Sustainability results from voluntary landowner implementation through holistic watershed management.
- \*3. The policy statement that adaptive management will be used to justify undefined actions to achieve stated goals is not justified. Adaptive management is trial and error. Scientific applications of adaptive management to direct mitigation actions require establishment of objective evaluative criteria and operational perimeters that this document lacks.

4. The policy statement that economic efficiency will be an important criterion for selection of a preferred alternative ignores the legal and environmental mandates of Area and Watershed of Origin Protection. It also disregards CALFED principles of equity and no redirected impacts. Little, if any, economic consideration has been given to Areas and Watersheds of Origin in your economic study. Economic efficiency for supplying new water demands or private sector profit margins should not be given priority over the environmental and economic sustainability of water source areas. An adequate economic study must account for information from studies of water resource extraction areas. Your assumptions must reflect information from studies such as: "Blue Gold" by the International Forum on Globalization, 1999; "California Water Transfers: An Evaluation of the Economic Framework and A Spatial Analysis of the Potential Impacts", by Pacific Institute for studies in Development, Environment, and Security, 1998; and "California Rural Growth Strategy," Governor's Office of Intergovernmental Affairs California Rural Development Council, 1997. Many of these studies point to costs which economists call "externalities." The lack of models to measure these impacts does not mean that the costs and impacts are unimportant. Additionally, the significance of proportional loss of current and future economic potential in water resource extraction areas requires framing data as a percentage of overall local economic activity. Compare both the resource extraction area and the water receiving area in this manner. Drop economic efficiency as a criterion for preferred alternative selection unless the document discloses these "externalities" and their regional economic significance is fully reflected.
5. Your Governance Program is inadequate to offer any assurance of implementation within the protections suggested in both enforcement and process. Linkages between programs, questionable definition of "significance", and a mechanism for individual stakeholders' meaningful access to decision makers are assumed yet unresolved. The approach to implementation is business as usual within agencies who have potential conflict of interest issues. Implementation of this 30 year plan relies on crafting consistent definitions between agencies, writing new laws, and legislative funding for actions that do not exist at this time. Even with these gaps resolved, they may not provide for the tiered and integrated actions suggested in this document. Consequently, these weaknesses make this document insufficient for anything beyond a short term (7 year) Record of Decision.
6. The assumption that water markets will resolve water shortages is unjustified at this time. It ignores the community interest in water. Both Gray and Santos have written on the issue of water's community value suggesting a parallel to "right of way" on dynamic water that does not percolate into unusable groundwater basins. That interpretation would be consistent with already accepted prescriptive rights interpretations. Establish the natural and human communities' legal standing in water before basing government policy on water transfer assumptions. Water markets set up speculation in water that ignores local public trust values. This is a risk to sustainability for source areas. Recent international treaties such as NAFTA and GATT present threats to local environmental and economic protection from water marketing.

Calling water a "good", these treaties classify water as a trade item subject to a no "protectionism" clause. An example of this complication is Sun Belt's suit against British Columbia's policy against bulk water exports under NAFTA provisions. (See "Blue Gold" pg.34) A similar interpretation of "market rights" would negate CALFED promises that protection is viable by respecting Local Control. The CALFED Water Transfer Element offers a clearinghouse to inform local decision makers of impacts as the only source area protection. This pending NAFTA action makes a Water Transfer Clearinghouse interesting but of no value in protection of local interests. Water speculators have no interest in local watershed or economic protection. Link land ownership and water rights to use of water within the watershed in areas of origin but not to use of water to export out of the watershed. We look for that legislation before considering any protections from water marketing adequate. Additionally, take governmental action to specifically exclude bulk water as a "good" in treaties. CALFED has pointed out that some water transfers are already happening. Many of these are transitory and not appropriate to factor into a governmental planning document for water reliability. Our recommendation for protections locally and internationally is critical. The Water Transfer element will go far to masking available resources and is a threat to responsible planning in both extraction and receiving areas. The longer we ignore the risks of taking any flexible drought safety margin out of the system, the bigger the crash will be. Including such an unresolved environmental and economic risk in the core programs is inappropriate for the planning of an integrated storage element.

7. The premise that the Delta environment is not safe unless it can provide water for growth inducement in arid regions South of the Delta assumes no governmental enforcement of existing laws. Underlying population estimates assume uncontrolled sprawl in arid regions and representations of unlimited access to resources which will continue to paralyze local Planning Departments. This is not consistent with recent local land use initiatives passed south of the Delta.
8. The assumption that the Monterey Agreement is viable is questionable. This agreement extends marketing of government-contract waters to interests with no contract rights. This system is already overextended. Marketing this water will reduce reliability for existing contractors if they cannot afford to meet outside buyer's bids. The decision on the Monterey Agreement is unresolved. This makes CALFED's inclusion of water transfers as a core program questionable.
9. The assumption that striped bass, an exotic species feeding on salmon, can be retained within a Delta salmon recovery strategy is scientifically insupportable. In protecting this exotic listed species, we look for development of an alternate mitigation strategy to isolate this fish.

We believe that the issue of sustainability is critically inadequate in the CALFED policy and the suggested actions of this EIR/EIS. As a result, we would like to suggest inclusion of the following sustainable actions as additions to your current CALFED tool box. These

suggestions for actions South of the Delta would result in reliability without increasing artificial stress on the Delta. Additionally, these steps result in better planning to match growth in demand to supply; beneficiary pays without adding another layer of government; increased technological advancement of water recycling; desalination; and landscape efficiencies. All these things empower stakeholders in local watersheds to control future risk and take sustainable actions. Though many of these actions may be inferred within the Urban Best Management Practices, a referenced document, all UBMPs seem to be voluntary and subject to "economic evaluation." CALFED should support legislation to require these actions.

1. Study of potential savings in water efficiencies resulting from requiring all EIRs for development to disclose drought water supplies within a firm watershed drought budget. (CALFED needs to establish such a budget for watersheds.) Require EIR disclosure of the risk and costs of rationing or other coping strategies to live within the watershed budget imposed by the pending new water demand. (Legislation required)
2. Require mitigation of increased demand by retiring old wasteful water use. Developer mitigation of new demand through retrofits of existing plumbing in homes, farms, and landscaping within the watershed should compensate for the new water demand. Precedent for this is found in air pollution credits that deal with a shared resource stressor that also is being used by the private property sector. (Building code)
3. Require all new construction include point-of-use water heaters where water heaters are more than 2 feet from point of use and landscape systems are plumbed for gray water and separate metering for billing when installed. (Building code)
4. Survey potential for small point-of-use ponds that provide environmental habitat, and some water storage capacity. Identify cumulative potential. (NRCS and Resource Conservation Districts RCDs) Support coverage of basic administrative costs for RCDs in every county to encourage broad dissemination of information about these opportunities.
5. Require any shift in water's purpose of use, even within a watershed, to show a community economic mitigation equivalent to an ongoing annual payment reflecting foregone opportunities in the resource extraction community. Require buyers to pay annual dividends to source communities for long term water sales. Base dividends on a share of the water's earning power for the buyer's end use. Track economic redistribution of assets within participating communities for evaluation if transfers are to continue beyond one year. This information should be available through the Clearinghouse. (CALFED standardized contract provision)
6. Study the potential for urban food security by requiring small agricultural buffer zones in new development with the project dedicating water supply for production of locally marketed foods.

7. Study the potential perennial yield of water from reclamation of abandoned basins (brown field water basins), reforestation of urban fringes, and reoperation of drainage projects in water short areas to maximize basin productivity. Conduct study to assess the costs of MTBEs in the destruction of water basins to evaluate the beneficial balance from water induced growth.

Many of our members have first-hand knowledge of the problems with water transfers from the 1994 Drought Water Bank implemented Butte County. Our concerns reflect unresolved damages ranging from contaminated and inaccessible domestic water supply from wells, losses in farm crops, forced pump repair and extensions, and impacts to native vegetation. There is nothing in this document that adds to the protections that were in place in 1994. Water District 3030 Plans are inadequate for managing or "operating" a healthy aquifer. Aquifer mechanics are poorly understood in many groundwater basins. Operation of a local water district does not make you a hydrologist though it might help you to seek opportunities to reduce the impacts the district operation imposes on an overexploited aquifer. These limitations to knowledge create undo risk from conjunctive use water transfers. Legal remedy for water transfer damages is too costly to be considered an accessible protection. The Statement that economic impact to source areas or rural communities "cannot be ignored" is not a protection. **Resolve inconsistencies in Agency definitions of Conjunctive Use Programs. Resolve internal inconsistencies before submittal for a Record of Decision. So many items are unresolved that a 30 year policy adoption is unacceptable.**

Specific comment on weaknesses not disclosed in this document's opinion on water transfers are:

1. Recognize risks of terrestrial environmental degradation in source areas, as well as, risks from changing the flow patterns of the groundwater and their river contributions. California's Mediterranean climate mandates evaluation of water resources based on summer availability rather than calculations of annual rainfall unless flood flows are captured. Recognize this linkage throughout your work. Address the environmental consequence of this oversight to flora and fauna.
2. The update of groundwater data (DWR bulletin 118 with public hearings this summer is inadequate for consideration as a baseline or reference document. There has been no good faith effort to update or solicit underrepresented independent well users' information. Budget constraints are not a justification for misrepresentation of the effort to establish baseline information in the EIR/EIS phase I tasks. Specific new input to a Butte Basin Inventory includes:
  - Water Quality—a concern with arsenic in Live Oak, boron at the perimeter of Cherokee Watershed, Domestic wells abandoned after "operation" of drought water bank actions at Gray Lodge along the border of Butte and Sutter Counties, failing or septic tank concentrations have created Nitrate Plumes in Chico, Cleaning solvents in Chico groundwater, superfund sites in Oroville, springs supplying domestic users at the edge of the basin, and nuclear wastes carried along the recharge zone by rail.

- Water Quantity—a concern with Agricultural water districts' adoption of incomplete 3030 plans, coordination of 3030 plans within the basin, and past participation in the Drought Water Banks. The applied surface water within the Ag water districts in South Butte County does not reach the deep strata that supply production wells. It runs off as stream contribution and shallow downstream supply. Past replacement of marketed surface water out of the basin with water pumped from deep wells exceeds the basin's annual capacity to recharge. The recharge is unpredictable and unmeasured. Modeling indicates programs to supply perennial water transfers will likely result in the following risks: diminished contribution to the rivers and downstream users. Drops in water table that could eliminate access to economically viable water for local uses. Salt water intrusion, subsidence, loss of native vegetation and wildlife corridors. Unreliable domestic water supplies for over 14,000 residences in Butte County.
3. Redirected economic impacts have already been imposed on county residents. The cost of attendance at CALFED meetings, establishing a County Water Department to look at water sales, and developing limited monitoring to establish baselines for potential evaluation of impacts are just a part of the unidentified redirected impacts of CALFED's current activities. The multiplicity of programs expecting to tap Butte Basin groundwater has not been calculated. CALFED needs to inventory these proposed demands for each watershed.
  4. CALFED economic study of alternatives reported that the cost of alternatives was comparable unless an element of the core program was disqualified. Study alternative comparisons using no water transfers out of their watersheds. This eventuality is predictable due to previously stated environmental and security problems that foreshadow taking this action off the table.

While our concerns extend beyond these comments, we like other agricultural regions have limited opportunity to study your documents and still attend to our livelihoods. The comment period and complexity of this document require prohibitive amounts of time and research. Considering the timing of this document's release, it is inappropriate for qualification of stakeholder participation. We request that you submit a revised Draft Programmatic Environmental Impact Report or Study. Develop information relevant to our comments. Insure subsequent comment periods for this second draft respect the limitations of concerned stakeholders.

We renew our commitment to working with you towards a sustainable solution to California's water problems and appreciate your efforts to date.

Sincerely,



Linda Cole, Director